



Rep. Daniel V. Beiser

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LRB098 04005 KTG 45908 a

1 AMENDMENT TO SENATE BILL 1197

2 AMENDMENT NO. _____. Amend Senate Bill 1197 by replacing
3 everything after the enacting clause with the following:

4 "Section 3. The Illinois Act on the Aging is amended by
5 changing Section 4.03 as follows:

6 (20 ILCS 105/4.03) (from Ch. 23, par. 6104.03)

7 Sec. 4.03. The Department on Aging, in cooperation with the
8 Department of Human Services and any other appropriate State,
9 local or federal agency, shall, without regard to income
10 guidelines, establish a nursing home prescreening program to
11 determine whether Alzheimer's Disease and related disorders
12 victims, and persons who are deemed as blind or disabled as
13 defined by the Social Security Act and who are in need of long
14 term care, may be satisfactorily cared for in their homes
15 through the use of home and community based services.
16 Responsibility for prescreening shall be vested with case

1 coordination units. Prescreening shall occur: (i) when
2 hospital discharge planners have advised the case coordination
3 unit of the imminent risk of nursing home placement of a
4 patient who meets the above criteria and in advance of
5 discharge of the patient; or (ii) when a case coordination unit
6 has been advised of the imminent risk of nursing home placement
7 of an individual in the community. The individual who is
8 prescreened shall be informed of all appropriate options,
9 including placement in a nursing home and the availability of
10 in-home and community-based services and shall be advised of
11 her or his right to refuse nursing home, in-home,
12 community-based, or all services. In addition, the individual
13 being prescreened shall be informed of spousal impoverishment
14 requirements, the need to submit financial information to
15 access services, and the consequences for failure to do so in a
16 form and manner developed jointly by the Department on Aging,
17 the Department of Human Services, and the Department of
18 Healthcare and Family Services. Case coordination units under
19 contract with the Department may charge a fee for the
20 prescreening provided under this Section and the fee shall be
21 no greater than the cost of such services to the case
22 coordination unit. At the time of each prescreening, case
23 coordination units shall provide information regarding the
24 Office of State Long Term Care Ombudsman's Residents Right to
25 Know database as authorized in subsection (c-5) of Section
26 4.04.

1 Notice by the Department as it relates to spousal
2 impoverishment requirements, the need to submit financial
3 information to access services, the consequences for failure to
4 do so, or the termination of benefits hereunder shall be deemed
5 adequate if notice is served upon the institutionalized spouse
6 or community spouse, or, if either spouse has been deemed
7 incompetent or adjudicated disabled, the spouse's authorized
8 legal representative, including, but not limited to, the
9 spouse's agent under power of attorney or guardian.

10 (Source: P.A. 95-80, eff. 8-13-07; 95-823, eff. 1-1-09; 96-328,
11 eff. 8-11-09.)

12 Section 5. The Nursing Home Care Act is amended by changing
13 Section 2-201 as follows:

14 (210 ILCS 45/2-201) (from Ch. 111 1/2, par. 4152-201)

15 Sec. 2-201. To protect the residents' funds, the facility:

16 (1) Shall at the time of admission provide, in order of
17 priority, each resident, or the resident's guardian, if any, or
18 the resident's representative, if any, or the resident's
19 immediate family member, if any, with a written statement
20 explaining to the resident and to the resident's spouse (a)
21 their spousal impoverishment rights, as defined at Section 5-4
22 of the Illinois Public Aid Code, and at Section 303 of Title
23 III of the Medicare Catastrophic Coverage Act of 1988 (P.L.
24 100-360), ~~and~~ (b) their obligation to comply with the asset and

1 income disclosure requirements of Title XIX of the federal
2 Social Security Act and the regulations duly promulgated
3 thereunder, except that this item (b) does not apply to
4 facilities operated by the Illinois Department of Veterans'
5 Affairs that do not participate in the State Medicaid program,
6 and (c) the resident's rights regarding personal funds and
7 listing the services for which the resident will be charged.
8 The facility shall obtain a signed acknowledgment from each
9 resident or the resident's guardian, if any, or the resident's
10 representative, if any, or the resident's immediate family
11 member, if any, that such person has received the statement.

12 (2) May accept funds from a resident for safekeeping and
13 managing, if it receives written authorization from, in order
14 of priority, the resident or the resident's guardian, if any,
15 or the resident's representative, if any, or the resident's
16 immediate family member, if any; such authorization shall be
17 attested to by a witness who has no pecuniary interest in the
18 facility or its operations, and who is not connected in any way
19 to facility personnel or the administrator in any manner
20 whatsoever.

21 (3) Shall maintain and allow, in order of priority, each
22 resident or the resident's guardian, if any, or the resident's
23 representative, if any, or the resident's immediate family
24 member, if any, access to a written record of all financial
25 arrangements and transactions involving the individual
26 resident's funds.

1 (4) Shall provide, in order of priority, each resident, or
2 the resident's guardian, if any, or the resident's
3 representative, if any, or the resident's immediate family
4 member, if any, with a written itemized statement at least
5 quarterly, of all financial transactions involving the
6 resident's funds.

7 (5) Shall purchase a surety bond, or otherwise provide
8 assurance satisfactory to the Departments of Public Health and
9 Insurance that all residents' personal funds deposited with the
10 facility are secure against loss, theft, and insolvency.

11 (6) Shall keep any funds received from a resident for
12 safekeeping in an account separate from the facility's funds,
13 and shall at no time withdraw any part or all of such funds for
14 any purpose other than to return the funds to the resident upon
15 the request of the resident or any other person entitled to
16 make such request, to pay the resident his allowance, or to
17 make any other payment authorized by the resident or any other
18 person entitled to make such authorization.

19 (7) Shall deposit any funds received from a resident in
20 excess of \$100 in an interest bearing account insured by
21 agencies of, or corporations chartered by, the State or federal
22 government. The account shall be in a form which clearly
23 indicates that the facility has only a fiduciary interest in
24 the funds and any interest from the account shall accrue to the
25 resident. The facility may keep up to \$100 of a resident's
26 money in a non-interest bearing account or petty cash fund, to

1 be readily available for the resident's current expenditures.

2 (8) Shall return to the resident, or the person who
3 executed the written authorization required in subsection (2)
4 of this Section, upon written request, all or any part of the
5 resident's funds given the facility for safekeeping, including
6 the interest accrued from deposits.

7 (9) Shall (a) place any monthly allowance to which a
8 resident is entitled in that resident's personal account, or
9 give it to the resident, unless the facility has written
10 authorization from the resident or the resident's guardian or
11 if the resident is a minor, his parent, to handle it
12 differently, (b) take all steps necessary to ensure that a
13 personal needs allowance that is placed in a resident's
14 personal account is used exclusively by the resident or for the
15 benefit of the resident, and (c) where such funds are withdrawn
16 from the resident's personal account by any person other than
17 the resident, require such person to whom funds constituting
18 any part of a resident's personal needs allowance are released,
19 to execute an affidavit that such funds shall be used
20 exclusively for the benefit of the resident.

21 (10) Unless otherwise provided by State law, upon the death
22 of a resident, shall provide the executor or administrator of
23 the resident's estate with a complete accounting of all the
24 resident's personal property, including any funds of the
25 resident being held by the facility.

26 (11) If an adult resident is incapable of managing his

1 funds and does not have a resident's representative, guardian,
2 or an immediate family member, shall notify the Office of the
3 State Guardian of the Guardianship and Advocacy Commission.

4 (12) If the facility is sold, shall provide the buyer with
5 a written verification by a public accountant of all residents'
6 monies and properties being transferred, and obtain a signed
7 receipt from the new owner.

8 (Source: P.A. 86-410; 86-486; 86-1028; 87-551; 87-1122.)

9 Section 10. The Illinois Public Aid Code is amended by
10 changing Section 5-4 as follows:

11 (305 ILCS 5/5-4) (from Ch. 23, par. 5-4)

12 Sec. 5-4. Amount and nature of medical assistance.

13 (a) The amount and nature of medical assistance shall be
14 determined in accordance with the standards, rules, and
15 regulations of the Department of Healthcare and Family
16 Services, with due regard to the requirements and conditions in
17 each case, including contributions available from legally
18 responsible relatives. However, the amount and nature of such
19 medical assistance shall not be affected by the payment of any
20 grant under the Senior Citizens and Disabled Persons Property
21 Tax Relief Act or any distributions or items of income
22 described under subparagraph (X) of paragraph (2) of subsection
23 (a) of Section 203 of the Illinois Income Tax Act. The amount
24 and nature of medical assistance shall not be affected by the

1 receipt of donations or benefits from fundraisers in cases of
2 serious illness, as long as neither the person nor members of
3 the person's family have actual control over the donations or
4 benefits or the disbursement of the donations or benefits.

5 In determining the income and resources available to the
6 institutionalized spouse and to the community spouse, the
7 Department of Healthcare and Family Services shall follow the
8 procedures established by federal law. If an institutionalized
9 spouse or community spouse refuses to comply with the
10 requirements of Title XIX of the federal Social Security Act
11 and the regulations duly promulgated thereunder by failing to
12 provide the total value of assets, including income and
13 resources, to the extent either the institutionalized spouse or
14 community spouse has an ownership interest in them pursuant to
15 42 U.S.C. 1396r-5, such refusal may result in the
16 institutionalized spouse being denied eligibility and
17 continuing to remain ineligible for the medical assistance
18 program based on failure to cooperate.

19 Subject to federal approval, the community spouse resource
20 allowance shall be established and maintained at the higher of
21 \$109,560 or the minimum level permitted pursuant to Section
22 1924(f)(2) of the Social Security Act, as now or hereafter
23 amended, or an amount set after a fair hearing, whichever is
24 greater. The monthly maintenance allowance for the community
25 spouse shall be established and maintained at the higher of
26 \$2,739 per month or the minimum level permitted pursuant to

1 Section 1924(d)(3)(C) of the Social Security Act, as now or
2 hereafter amended, or an amount set after a fair hearing,
3 whichever is greater. Subject to the approval of the Secretary
4 of the United States Department of Health and Human Services,
5 the provisions of this Section shall be extended to persons who
6 but for the provision of home or community-based services under
7 Section 4.02 of the Illinois Act on the Aging, would require
8 the level of care provided in an institution, as is provided
9 for in federal law.

10 (b) Spousal support for institutionalized spouses
11 receiving medical assistance.

12 (i) The Department may seek support for an
13 institutionalized spouse, who has assigned his or her right
14 of support from his or her spouse to the State, from the
15 resources and income available to the community spouse.

16 (ii) The Department may bring an action in the circuit
17 court to establish support orders or itself establish
18 administrative support orders by any means and procedures
19 authorized in this Code, as applicable, except that the
20 standard and regulations for determining ability to
21 support in Section 10-3 shall not limit the amount of
22 support that may be ordered.

23 (iii) Proceedings may be initiated to obtain support,
24 or for the recovery of aid granted during the period such
25 support was not provided, or both, for the obtainment of
26 support and the recovery of the aid provided. Proceedings

1 for the recovery of aid may be taken separately or they may
2 be consolidated with actions to obtain support. Such
3 proceedings may be brought in the name of the person or
4 persons requiring support or may be brought in the name of
5 the Department, as the case requires.

6 (iv) The orders for the payment of moneys for the
7 support of the person shall be just and equitable and may
8 direct payment thereof for such period or periods of time
9 as the circumstances require, including support for a
10 period before the date the order for support is entered. In
11 no event shall the orders reduce the community spouse
12 resource allowance below the level established in
13 subsection (a) of this Section or an amount set after a
14 fair hearing, whichever is greater, or reduce the monthly
15 maintenance allowance for the community spouse below the
16 level permitted pursuant to subsection (a) of this Section.

17 (c) Notice by the Department as it relates to spousal
18 impoverishment requirements, the need to submit financial
19 information to access services, the consequences for failure to
20 do so, or the termination of benefits hereunder shall be deemed
21 adequate if notice is served upon the institutionalized spouse
22 or community spouse, or, if either spouse has been deemed
23 incompetent or adjudicated disabled, the spouse's authorized
24 legal representative, including, but not limited to, the
25 spouse's agent under power of attorney or guardian.

26 (Source: P.A. 97-689, eff. 6-14-12.)

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.".